

## **COUNTY OF YORK MEMORANDUM**

**DATE:** September 21, 2000 (BOS Mtg. 10/17/00)

**TO:** York County Board of Supervisors

**FROM:** James E. Barnett, County Attorney

**SUBJECT:** Amendment of County Library Ordinance-Chapter 13, York County Code

Recently you considered for adoption a library management agreement between the County Board of Supervisors and the Library Board of Trustees, by which the Library Board had chosen to exercise its management and control of the library by authorizing the County to exercise certain management functions. As the County Administrator pointed out to you in his memo accompanying the draft agreement and adopting resolution, Chapter 13 of the York County Code ("Library") also attempts to define the proper role and function of the Library Board in ways which, unfortunately, are largely inconsistent with the Code of Virginia.

Code of Virginia § 42.1-35 says that "the management and control of a free public library system shall be vested in a board of not less than five members or trustees" to be appointed by the governing body. The Library Board is authorized to adopt such bylaws, rules and regulations for the government of the library system as they deem proper, and are granted control of the expenditures of all moneys which may be placed by the governing body into the local library fund. Many of the provisions in the County Code which govern the manner in which the Library Board may operate the library or which dictate that the County shall appoint the librarians, assistants and employees of the library appear to be inconsistent with the nearly plenary authority which the Library Board has over the operation of the library. See for example, County Code § 13-2, which indicates that all librarians and employees of the library, including the chief librarian, are to be appointed by the Board of Supervisors, and County Code § 13-25 which dictates that the library board shall elect a chairman, vice chairman and other officers as the library board deems necessary. Other provisions of Chapter 13 either appear to merely mimic the Virginia Code (for example, § 13-28 which authorizes the library board to adopt its own by-laws, rules and regulations) or contradict the Virginia Code as it currently exists (see County Code § 13-3 which incorporates limitations on the expenditures of public money in accordance with Virginia Code §§15.1-117 (11) and 15.1-163.1, both of which were repealed several years ago.)

Because the authority of the Library Board is statutory, I have recommended that the Board of Supervisors repeal existing Chapter 13 of the County Code and replace it with a new Article V under Chapter 2 of the County Code "Administration" for the purpose of continuing the existence of the Library Board, indicating that they shall serve terms of four years each, with staggered terms. I have proposed deleting the language in present § 13-21 which provides that no member of the Library Board

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shall be appointed for more than two consecutive four year terms, as that limitation is not mandatory upon local library boards.

Attached is an ordinance which if adopted would amend the County Code as I have described. I recommend its adoption.

Barnett/3340:sw  
Attachments: Ordinance No. 00-19